
By: **Delegates Conway, Bozman, Cane, Eckardt, Elmore, and Haddaway**

Introduced and read first time: February 25, 2004

Assigned to: Rules and Executive Nominations

Re-referred to: Judiciary, March 8, 2004

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 27, 2004

CHAPTER _____

1 AN ACT concerning

2 **Juvenile Causes - Truancy Reduction Pilot Program**

3 FOR the purpose of ~~establishing the~~ authorizing the establishment of a Truancy
4 Reduction Pilot Program; limiting the application of this Act to in certain
5 counties; requiring the county administrative judge to establish a docket for
6 truancy cases; establishing a certain Code violation and civil offense for failure
7 of a ~~child~~ certain children to attend school without lawful excuse as a Code
8 violation; establishing that the Code violation is a civil offense, is not a criminal
9 conviction, and does not result in certain civil disabilities; ~~establishing that a~~
10 authorizing certain school officials to petition the juvenile court alleging that a
11 child who is required under a certain law to attend school fails to attend school
12 without lawful excuse ~~shall be filed by an authorized school official in circuit~~
13 court; ~~prohibiting an authorized school official from filing; authorizing certain~~
14 school officials to file a certain petition only under certain circumstances ~~unless~~
15 certain charges were filed and dismissed; requiring the court to hold an
16 adjudicatory hearing after a certain petition is filed; establishing that certain
17 rules of evidence apply at an adjudicatory hearing; establishing that the
18 allegations in a petition shall be proved by a preponderance of the evidence;
19 requiring the court to hold a separate disposition hearing except under certain
20 circumstances; requiring the disposition hearing to be held on the same day as
21 the adjudicatory hearing except under certain circumstances when the hearing
22 shall be held within a certain period; authorizing the court to take certain
23 actions in making a disposition on a petition; ~~establishing that making certain~~
24 cases ~~on the truancy docket~~ are eligible for family support services; clarifying
25 that certain criminal defendants are subject to probation, including probation
26 under certain provisions relating to probation before judgment ~~apply to a~~
27 defendant charged with a certain offense; ~~authorizing the court to impose~~

1 ~~certain conditions of probation under certain circumstances; establishing that~~
2 ~~certain criminal defendants are subject to certain additional conditions of~~
3 ~~probation; establishing that the Maryland Rules govern the format of a certain~~
4 ~~petition and certain procedures; establishing that the providing for the period~~
5 ~~for which the court retains jurisdiction over certain petitions and criminal cases~~
6 ~~under certain circumstances; authorizing a party to appeal a final judgment in~~
7 ~~accordance with certain procedures laws; authorizing certain criminal charges~~
8 ~~to be filed in the juvenile court and assigned to a truancy docket; establishing a~~
9 ~~certain affirmative defense in a certain criminal case; requiring a the court to~~
10 ~~dismiss certain charges under certain circumstances; specifying the contents of~~
11 ~~a certain petition; requiring the circuit administrative judge for a certain circuit~~
12 ~~to submit a certain report on the pilot program; making this Act subject to a~~
13 ~~certain contingency; providing for the termination of this Act; and generally~~
14 ~~relating to the Truancy Reduction Pilot Program.~~

15 BY adding to

16 Article - Courts and Judicial Proceedings
17 Section 3-8C-01 through ~~3-8C-09~~ 3-8C-10, inclusive, to be under the new
18 subtitle "Subtitle 8C. Truancy Reduction Pilot Program"
19 Annotated Code of Maryland
20 (2002 Replacement Volume and 2003 Supplement)

21 BY repealing and reenacting, without amendments,

22 Article - Criminal Procedure
23 Section 6-220(b)(1)
24 Annotated Code of Maryland
25 (2001 Volume and 2003 Supplement)

26 BY repealing and reenacting, without amendments,

27 Article - Education
28 Section 7-301(a)(1), (c), and (e)
29 Annotated Code of Maryland
30 (2001 Replacement Volume and 2003 Supplement)

31 BY adding to

32 Article - Education
33 Section 7-301(e-1)
34 Annotated Code of Maryland
35 (2001 Replacement Volume and 2003 Supplement)

36 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
37 MARYLAND, That the Laws of Maryland read as follows:

1 **Article - Courts and Judicial Proceedings**

2 SUBTITLE 8C. TRUANCY REDUCTION PILOT PROGRAM.

3 3-8C-01.

4 ~~(A)~~ THIS SUBTITLE APPLIES ONLY IN DORCHESTER COUNTY, SOMERSET
5 COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY.6 ~~3-8C-02.~~7 ~~(B)~~ ~~(1)~~ THE CIRCUIT ADMINISTRATIVE JUDGE OF THE FIRST CIRCUIT SHALL
8 MAY ESTABLISH A TRUANCY REDUCTION PILOT PROGRAM IN ONE OR MORE OF THE
9 ~~CIRCUIT JUVENILE COURTS OF~~ IN DORCHESTER COUNTY, SOMERSET COUNTY,
10 WICOMICO COUNTY, AND WORCESTER COUNTY.11 ~~(2)~~ ~~THE COUNTY ADMINISTRATIVE JUDGE OF THE CIRCUIT COURT FOR~~
12 ~~THE COUNTY SHALL ASSIGN TO A TRUANCY DOCKET ALL:~~13 ~~(1)~~ ~~PETITIONS FILED UNDER THIS SUBTITLE ALLEGING THAT A~~
14 ~~CHILD WHO IS REQUIRED TO ATTEND SCHOOL FAILS TO ATTEND SCHOOL WITHOUT~~
15 ~~LAWFUL EXCUSE; AND~~16 ~~(II)~~ ~~CRIMINAL CASES ARISING UNDER THE COMPULSORY~~
17 ~~ATTENDANCE LAWS OF THE STATE UNDER § 7-301 OF THE EDUCATION ARTICLE.~~18 ~~3-8C-02: 3-8C-03.~~19 (A) A CHILD WHO IS REQUIRED UNDER § 7-301 OF THE EDUCATION ARTICLE
20 TO ATTEND SCHOOL IN ACCORDANCE WITH § 7-301 OF THE EDUCATION ARTICLE
21 MAY NOT FAIL TO ATTEND SCHOOL DO SO WITHOUT LAWFUL EXCUSE.22 (B) A VIOLATION OF THIS SECTION IS A CODE VIOLATION AND IS A CIVIL
23 OFFENSE.24 (C) ADJUDICATION OF A CODE VIOLATION UNDER THIS SECTION IS NOT A
25 CRIMINAL CONVICTION FOR ANY PURPOSE AND DOES NOT IMPOSE ANY OF THE CIVIL
26 DISABILITIES ORDINARILY IMPOSED BY A CRIMINAL CONVICTION.27 ~~3-8C-03: 3-8C-04.~~28 (A) AN AUTHORIZED SCHOOL OFFICIAL MAY FILE WITH THE JUVENILE
29 COURT A PETITION ALLEGING THAT A CHILD WHO IS REQUIRED TO ATTEND SCHOOL
30 FAILS TO ATTEND SCHOOL WITHOUT LAWFUL EXCUSE SHALL BE FILED IN CIRCUIT
31 COURT BY AN AUTHORIZED SCHOOL OFFICIAL. A VIOLATION OF THIS SUBTITLE.32 (B) IF A CHILD IS UNDER THE AGE OF 12 YEARS, AN AUTHORIZED SCHOOL
33 OFFICIAL MAY NOT FILE A PETITION UNDER THIS SUBTITLE UNLESS ONLY IF:

1 (1) A CRIMINAL CHARGE WAS FILED UNDER § 7-301 OF
 2 THE EDUCATION ARTICLE AGAINST THE PERSON ~~WHO HAS~~ WITH LEGAL CUSTODY OR
 3 CARE AND CONTROL OF THE CHILD AT THE TIME OF THE ALLEGED VIOLATION; AND

4 (2) THE COURT DISMISSED THE ~~CHARGES~~ CHARGE IN ACCORDANCE
 5 WITH § 7-301(E-1) OF THE EDUCATION ARTICLE.

6 ~~3-8C-04.~~ 3-8C-05.

7 (A) A PETITION ~~FILED~~ UNDER THIS SUBTITLE SHALL ALLEGE THAT A CHILD
 8 WHO IS REQUIRED TO ATTEND SCHOOL FAILED TO ATTEND SCHOOL WITHOUT
 9 LAWFUL EXCUSE AND SHALL SET FORTH IN CLEAR AND SIMPLE LANGUAGE THE
 10 FACTS SUPPORTING THE ALLEGATION.

11 (B) (1) ~~AFTER~~ WHENEVER A PETITION IS FILED UNDER THIS SUBTITLE THE
 12 COURT SHALL HOLD AN ADJUDICATORY HEARING.

13 (2) THE RULES OF EVIDENCE UNDER TITLE 5 OF THE MARYLAND RULES
 14 SHALL APPLY AT AN ADJUDICATORY HEARING UNDER THIS SECTION.

15 (3) THE ALLEGATIONS IN A PETITION ~~FILED~~ UNDER THIS SUBTITLE
 16 SHALL BE PROVED BY A PREPONDERANCE OF THE EVIDENCE.

17 ~~3-8C-05.~~ 3-8C-06.

18 (A) UNLESS A PETITION FILED UNDER THIS SUBTITLE IS DISMISSED, THE
 19 COURT SHALL HOLD A SEPARATE DISPOSITION HEARING AFTER THE ADJUDICATORY
 20 HEARING.

21 (B) THE COURT SHALL HOLD A DISPOSITION HEARING ~~SHALL BE HELD ON~~
 22 THE SAME DAY AS THE ADJUDICATORY HEARING UNLESS, ON ITS OWN MOTION OR
 23 MOTION OF A PARTY, THE COURT FINDS THAT THERE IS GOOD CAUSE TO DELAY THE
 24 DISPOSITION HEARING TO A LATER DAY.

25 (C) IF THE COURT DELAYS A DISPOSITION HEARING, IT SHALL BE HELD NO
 26 LATER THAN 15 DAYS AFTER THE CONCLUSION OF THE ADJUDICATORY HEARING
 27 UNLESS GOOD CAUSE IS SHOWN.

28 (D) ~~(+)~~ IN MAKING A DISPOSITION ON A PETITION FILED UNDER THIS
 29 SUBTITLE, THE COURT MAY ~~TAKE SUCH ACTION AS WILL PROMOTE THE CHILD'S~~
 30 ~~ATTENDANCE IN SCHOOL.~~

31 ~~(2)~~ ~~THE COURT MAY ORDER:~~

32 ~~(+)~~ THE CHILD TO:

33 (1) ATTEND SCHOOL;

34 ~~+~~ (2) PERFORM COMMUNITY SERVICE;

1 ~~3-8C-09.~~ 3-8C-10.

2 A PARTY MAY APPEAL A FINAL JUDGMENT ENTERED UNDER THIS SUBTITLE AS
3 PROVIDED IN TITLE 12 OF THIS ARTICLE AND IN THE MARYLAND RULES.

4 **Article - Criminal Procedure**

5 6-220.

6 (b) (1) When a defendant pleads guilty or nolo contendere or is found guilty
7 of a crime, a court may stay the entering of judgment, defer further proceedings, and
8 place the defendant on probation subject to reasonable conditions if:

9 (i) the court finds that the best interests of the defendant and the
10 public welfare would be served; and

11 (ii) the defendant gives written consent after determination of guilt
12 or acceptance of a nolo contendere plea.

13 **Article - Education**

14 7-301.

15 (a) (1) Except as otherwise provided in this section, each child who resides
16 in this State and is 5 years old or older and under 16 shall attend a public school
17 regularly during the entire school year unless the child is otherwise receiving regular,
18 thorough instruction during the school year in the studies usually taught in the public
19 schools to children of the same age.

20 (c) Each person who has legal custody or care and control of a child who is 5
21 years old or older and under 16 shall see that the child attends school or receives
22 instruction as required by this section.

23 (e) (1) Any person who induces or attempts to induce a child to absent
24 himself unlawfully from school or employs or harbors any child who is absent
25 unlawfully from school while school is in session is guilty of a misdemeanor and on
26 conviction is subject to a fine not to exceed \$500 or imprisonment not to exceed 30
27 days, or both.

28 (2) Any person who has legal custody or care and control of a child who is
29 5 years old or older and under 16 who fails to see that the child attends school or
30 receives instruction under this section is guilty of a misdemeanor and:

31 (i) For a first conviction is subject to a fine not to exceed \$50 per
32 day of unlawful absence or imprisonment not to exceed 10 days, or both; and

33 (ii) For a second or subsequent conviction is subject to a fine not to
34 exceed \$100 per day of unlawful absence or imprisonment not to exceed 30 days, or
35 both.

1 (3) As to any sentence imposed under this section, the court may
 2 suspend the fine or the prison sentence and establish terms and conditions which
 3 would promote the child's attendance. The suspension authority provided for in this
 4 subsection is in addition to and not in limitation of the suspension authority under §
 5 6-221 of the Criminal Procedure Article.

6 (E-1) (1) THIS SUBSECTION APPLIES ONLY IN DORCHESTER COUNTY,
 7 SOMERSET COUNTY, WICOMICO COUNTY, AND WORCESTER COUNTY.

8 (2) ~~AN ACTION BROUGHT A CHARGE UNDER THIS SECTION SHALL MAY~~
 9 ~~BE FILED IN CIRCUIT THE JUVENILE COURT AND ASSIGNED TO THE A TRUANCY~~
 10 ~~DOCKET IN ACCORDANCE WITH § 3-8C-04 FOR DISPOSITION UNDER TITLE 3,~~
 11 SUBTITLE 8C OF THE COURTS ARTICLE.

12 (3) FOR A PERSON WITH LEGAL CUSTODY OR CARE AND CONTROL OF A
 13 CHILD AT THE TIME OF AN ALLEGED VIOLATION OF THIS SECTION, IT IS AN
 14 AFFIRMATIVE DEFENSE TO A CHARGE UNDER THIS SECTION THAT THE PERSON WHO
 15 ~~HAS LEGAL CUSTODY OR CARE AND CONTROL OF THE CHILD HAS MADE~~
 16 REASONABLE AND SUBSTANTIAL EFFORTS TO SEE THAT THE CHILD ATTENDS
 17 ATTENDED SCHOOL AS REQUIRED BY LAW BUT IS WAS UNABLE TO CAUSE THE CHILD
 18 TO ATTEND SCHOOL.

19 (4) IF THE COURT ~~DETERMINES THAT~~ FINDS THE AFFIRMATIVE
 20 DEFENSE IS VALID, THE COURT SHALL DISMISS THE ~~CHARGES~~ CHARGE UNDER THIS
 21 SECTION AGAINST THE DEFENDANT.

22 SECTION 2. AND BE IT FURTHER ENACTED, That on or before May 31,
 23 2007, the Circuit Administrative Judge for the First Circuit shall submit a report to
 24 the General Assembly, in accordance with § 2-1246 of the State Government Article,
 25 that evaluates the Truancy Reduction Pilot Program established under this Act.

26 SECTION 3. AND BE IT FURTHER ENACTED, That this Act is contingent
 27 on funds being included in the 2005, 2006, and 2007 fiscal year State ~~budget~~ budgets
 28 for the Administrative Office of the Courts/Family Services Program to establish the
 29 Truancy Reduction Pilot Program ~~for the circuit~~ in one or more of the juvenile courts
 30 ~~of in~~ in Dorchester County, Somerset County, Wicomico County, and Worcester County. If
 31 the funds are not included in the ~~2005~~ State budget for fiscal years 2005, 2006, or
 32 2007, this Act shall be null and void without the necessity of further action by the
 33 General Assembly.

34 SECTION 4. AND BE IT FURTHER ENACTED, That, subject to the provisions
 35 of Section 3 of this Act, this Act shall take effect July 1, 2004. It shall remain effective
 36 for a period of 3 years and, at the end of June 30, 2007, with no further action
 37 required by the General Assembly, this Act shall be abrogated and of no further force
 38 and effect.

